

DECISION**OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-192538**DATE: SEP 11 1978****MATTER OF: A. B. James Freight Lines****DIGEST:**

1. Transfer of transportation audit function from this Office to GSA by Pub. L. No. 93-604, approved January 2, 1975, and effective October 12, 1975, included settled claims.
2. Request by carrier for review of settlement disallowing claim by former Transportation and Claims Division (TCD), received in GAO later than 6 months from date of final dispositive action by GSA or 3 years from date of deduction is time-barred.
3. Six-month period on claims settled by former TCD begins to run from effective date of transfer, October 12, 1975.

A. B. James Freight Lines (James), in its letter of July 24, 1978, requests a review by the Comptroller General of settlement action taken by the former Transportation and Claims Division (TCD) of the General Accounting Office on September 16, 1974.

The record shows that James billed and was paid \$372.75 in July 1972, for transportation services rendered on a shipment from San Diego, California to Port Chicago, California, on Government bill of lading No. D-5577373, dated May 15, 1972. TCD determined in its audit of transportation charges that lower charges were available than those billed by James. Therefore, a Notice of Overcharge for \$169.60 was stated against James. James protested the overcharge and received a reply from TCD. However, because of the time limitation imposed by 49 U.S.C. 66, the overcharge of \$169.60 was collected by deduction on September 16, 1974, from amounts otherwise due the carrier. James filed a claim with TCD on March 25, 1975, for the amount deducted. We determined informally that TCD issued settlement on July 23, 1975, disallowing the claim. The letter of July 24, 1978, is the first correspondence received from James concerning the claim since March 25, 1975.

Although James presents several reasons in support of its review request, we need not consider them, because, in our opinion, the claim is barred from our consideration by the time limitations on our review in the General Accounting Office Act of 1974, Pub. L. No. 93-604, approved January 2, 1975.

The transportation audit function was transferred from this Office to the General Services Administration (GSA) under the provisions of that Act. The entire transportation audit function, including the settlement of claims, was transferred to GSA, with the General Accounting Office retaining its oversight responsibilities as well as an appellate function enabling carriers to request the Comptroller General to review executive agency action on their claims. See Hearings on H.R. 12113 before a Subcomm. of the House Comm. on Government Operations, 93d Cong., 2d Sess. 32 (1974). The transfer was effective October 12, 1975 (B-163758, August 27, 1975), and on that date TCD's final action of July 23, 1975, became in effect the action of GSA.

The authority for this Office to review an action taken by GSA on transportation claims is found at 49 U.S.C. 66(b) (Supp. V, 1975), which provides that:

"Nothing in subsection (a) of this section hereof shall be deemed to prevent any carrier or forwarder from requesting the Comptroller General to review the action on his claim by the General Services Administration, or his designee. Such request shall be forever barred unless received in the General Accounting Office within six months (not including in time of war) from the date the action was taken or within the periods of limitation specified in the second proviso in subsection (a) of this section, whichever is later."

Pursuant to this statutory provision, we have promulgated regulations for the review of GSA transportation settlement actions. 4 C.F.R. 53 (1977). Specifically, 4 C.F.R. 53.2 (1977) provides that:

"Actions taken by the General Services Administration on a claim by a carrier or freight forwarder entitled under 49 U.S.C. 66 to be paid for transportation services prior to audit that have dispositive effect and constitute a settlement action as defined in sec. 53.1 will be reviewed by the Comptroller General, provided request for review of such action is made within six months (not including time of war) from the date such action is taken or within the periods of limitation specified in 49 U.S.C. 66(a), whichever is later."

The periods of limitation referred to in both the statute and regulation, specified in 49 U.S.C. 66(a), are: (1) accrual of the cause of action, (2) payment of the transportation charges, (3) subsequent refund for overpayment and (4) deduction. The applicable dates for determining the statutory barring period in this case are the date the transfer was effective, October 12, 1975, and the date of deduction, September 16, 1974. James had 6 months from the date of the transfer, or April 13, 1976, or 3 years from the date of the deduction, or September 17, 1977, to file the request for review of the final action taken by TCD on July 23, 1975, on its claim. Since the request by James for a review of that action by this Office was not received here until July 27, 1978, we are barred by the provisions of the statute from considering it. 57 Comp. Gen. 157 (1977).

R.F. KELLER

[Deputy] Comptroller General
of the United States